

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION**

RODNEY D. PIERCE and
MOSES MATTHEWS,

Plaintiffs,

v.

THE NORTH CAROLINA STATE BOARD
OF ELECTIONS, et al.,

Defendants.

Case No. 4:23-cv-193-D

**REPORT OF THE PARTIES' PLANNING MEETING
PURSUANT TO FED. R. CIV. P. 26(f)**

Plaintiffs, Legislative Defendants, and State Board Defendants respectfully submit this report of their meeting pursuant to Rule 26(f).

1. The following persons participated in a Rule 26(f) conference on April 18, 2024, by videoconference:

For Plaintiffs:

Elisabeth Theodore
Stanton Jones
Eddie Speas

For Legislative Defendants:

Alyssa Riggins
Katherine McKnight
Erika Prouty

For State Board Defendants:

Terence Steed
Mary Carla Babb

2. Initial Disclosures. The parties will complete by May 1, 2024, the initial disclosures required by Rule 26(a)(1).

3. Discovery Plan. The parties propose this discovery plan:

- a. Discovery will be needed on these topics: The creation and performance of the state Senate map enacted October 25, 2023, specifically Districts 1 and 2 and their impact on the opportunity of Black voters in northeastern North Carolina's Black Belt counties to elect their candidates of choice; socioeconomic and political issues relating to the experiences of Black residents living in the Black Belt counties and Districts 1 and 2; this includes factual issues relating to the three *Gingles* preconditions and the totality of the circumstances for purposes of Section 2 of the Voting Rights Act, including but not limited to the success of Black candidates, the existence of racial appeals, the history of discrimination, and other totality-of-the-circumstance factors.
- b. Discovery will commence on May 2, 2024. Per the parties' April 1 joint submission on scheduling (ECF 70), Plaintiffs proposed an August 30, 2024 discovery cutoff, and Legislative Defendants proposed September 13, 2024.
- c. Interrogatories and responses thereto will be governed by Rule 33.
- d. Requests for admission and responses thereto will be governed by Rule 36.
- e. Depositions will be governed by Rule 30. In the event any party seeks to exceed the default limit of 10 depositions, the parties will confer in good faith and notify the Court if they are unable to reach a voluntary agreement. The parties acknowledge that a party may seek to re-open the deposition of an opposing expert for the limited purpose of questioning about any supplemental expert report by that expert following the November 2024 elections.
- f. Plaintiffs and Legislative Defendants stand by their respective proposed deadlines for exchanging expert reports in the April 1 joint submission (ECF

70). For convenience, those proposals were as follows:

- i. Plaintiffs proposed all parties' opening expert reports due May 31, all parties' responsive reports due July 12, all parties' reply reports due August 2, and any sur-reply reports due August 16, plus supplemental reports on racially polarized voting with data from the November 2024 elections due November 25.
 - ii. Legislative Defendants proposed Plaintiffs' opening reports due May 31, Defendants' responsive reports due July 12, Plaintiffs' reply reports due August 2, and any sur-reply reports due August 16, plus supplemental reports on racially polarized voting with data from November 2024 elections due January 9, 2025, with rebuttals to those supplemental expert reports due on January 24, 2025.
 - g. The parties will meet and confer regarding an agreed ESI protocol.
 - h. The parties will meet and confer regarding an agreed protocol for clawback and any other issues regarding attorney-client privileged or otherwise protected materials.
4. Other items:
- a. Plaintiffs and Legislative Defendants stand by the other deadlines they each proposed in the April 1 joint submission (ECF 70), including with respect to dispositive motions, pretrial disclosures, pretrial conference, trial, and post-trial proposed findings of fact and conclusions of law.
 - b. The parties do not believe that settlement is feasible at this stage.

Dated: April 30, 2024

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

By: /s/ Alyssa M. Riggins

Phillip J. Strach
North Carolina State Bar No. 29456
Alyssa M. Riggins
North Carolina State Bar No. 52366
Cassie A. Holt
North Carolina State Bar No. 56505
Alexandra M. Bradley
North Carolina State Bar No. 54872
301 Hillsborough Street, Suite 1400
Raleigh, North Carolina 27603
Ph: (919) 329-3800
phil.strach@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
cassie.holt@nelsonmullins.com
alex.bradley@nelsonmullins.com

BAKERHOSTETLER LLP

Richard B. Raile*
DC Bar No. 1015689
Katherine L. McKnight*
Trevor Stanley*
1050 Connecticut Ave. NW, Suite 1100
Washington DC 20036
Ph: (202) 861-1500
rraile@bakerlaw.com
kmcknight@bakerlaw.com
tstanley@bakerlaw.com

Rachel Hooper*
Texas State Bar No. 24039102
Tyler G. Doyle*
Texas State Bar No. 24072075
811 Main Street, Suite 1100
Houston, Texas 77002
Ph: (713) 751-1600

rhooper@bakerlaw.com
tgdoyle@bakerlaw.com

Respectfully submitted,

**ARNOLD & PORTER
KAYE SCHOLER LLP**

By: /s/ R. Stanton Jones

R. Stanton Jones*
Stanton.Jones@arnoldporter.com
Elisabeth S. Theodore*
Elisabeth.Theodore@arnoldporter.com
Samuel I. Ferenc*
Sam.Ferenc@arnoldporter.com
601 Massachusetts Ave. NW
Washington, DC 20001-3743
202.942.5000

POYNER SPRUILL LLP

Edwin M. Speas, Jr.
N.C. State Bar No. 4112
espeas@poynerspruill.com
P.O. Box 1801
Raleigh, NC 27602-1801
919.783.6400

Attorneys for Plaintiffs
**Special Appearance*

**NORTH CAROLINA
DEPARTMENT OF JUSTICE**

By: /s/ Terence Steed

Terence Steed
Special Deputy Attorney General
N.C. State Bar No. 52809
E-mail: tsteed@ncdoj.gov
Mary Carla Babb
Special Deputy Attorney General
N.C. State Bar No. 25731
mcbabb@ncdoj.gov
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602-0629
Telephone: (919) 716-6567

Attorneys for the State Board

Patrick T. Lewis*
Ohio State Bar No. 0078314
Key Tower
127 Public Square, Suite 2000
Cleveland, Ohio 44114
Ph: (216) 621-0200
plewis@bakerlaw.com

Erika Dackin Prouty*
Ohio State Bar No. 0095821
200 Civic Center Drive, Suite 1200
Columbus, OH 43215
(614) 462-4710
eprouy@bakerlaw.com

** Appeared via Special Notice*

Attorneys for Legislative Defendants

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel and parties registered in said system.

Dated: April 30, 2024

/s/ R. Stanton Jones
R. Stanton Jones